

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	
)	
v.)	CASE NO. C-1-00-637
)	
DANIEL GREEN; LW.G. CO., INC. f/k/a)	JUDGE MICHAEL WATSON
GREEN INDUSTRIES INC.; THE ESTATE)	
OF MAURICE GREEN; DANIEL GREEN)	
IN HIS CAPACITY AS THE PERSONAL)	
REPRESENTATIVE OF THE ESTATE)	
OF MAURICE GREEN; and HARD SURFACE)	
TECHNOLOGY INC.,)	
)	
Defendants)	
and)	
)	
SAUNDRA GREEN, wife of)	
DEFENDANT DANIEL GREEN)	
)	
Rule 19 Defendant.)	

JOINT STATUS REPORT OF PARTIES

Pursuant to the Court's Order for a Status Report for Cases Transferred to the Docket of the Honorable Michael H. Watson entered October 14, 2004, the parties state as follows:

1. Nature of the Case and Brief Description of Claims Asserted: The United States alleges that Defendants are jointly and severally liability under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9601 *et seq.*, for costs incurred by the United States responding to releases and threatened releases of hazardous substances at or from a facility located at 3603 Kemper Road in Sharonville, Ohio. In addition, the United States alleges fraudulent transfer claims under the Federal Debt Collection Procedure Act, 28 U.S.C. § 3001 *et seq.*, relating to alleged transfers from Defendant Daniel Green to Rule 19 Defendant Sandra Green. Currently pending is the United States' Motion for

Leave to File Third Amended Complaint which would add fraudulent transfer claims relating to the transfer of assets from LWG to Omni Industrial Properties, Inc.

By Order dated July 20, 2004, the Court ruled on various party motions for summary judgment. In that ruling, the Court: (1) dismissed all claims against Defendant Hard Surface Technology, Inc.; (2) refused to grant summary judgment in favor of Rule 19 Defendant Sandra Green, but held that the Federal Debt Collection Procedure Act's statute of limitations applied, thereby precluding the United States from pursuing its claims against Sandra Green that were based on certain transfers alleged to have occurred in 1990; (3) granted the United States' motion for summary judgment against Defendant LWG Co., Inc.; and (4) refused to grant summary judgment in favor of or against Defendant Daniel Green. Finally, the Court also ordered Defendant Estate of Maurice Green to show cause why summary judgment should not be entered against it for failing to respond to the United States' motion for summary judgment. The Estate filed a Response on August 9, 2004.

2. Efforts to Settle, pre-and post-filing of Complaint: Immediately after the initial filing of the Complaint, the parties engaged in very brief, unsuccessful, informal settlement discussions. Currently, the parties are engaged in settlement negotiations that have the potential to result in the resolution of all of the United States' remaining claims. The parties anticipate the results of the current settlement discussions to be known on or before December 1, 2004.

3. Scheduled Dates: By Case Management Order, litigation of this action has been segregated into three consecutive phases: Phase I (Liability), Phase II (Costs), and Phase III (Assets). Phase I has been completed (pending resolution of the United States' Motion for Reconsideration relating to its motion for summary judgment against Daniel Green). No dates have been scheduled for Phase II or Phase III activities.

(a) Discovery Cut-off: Phase I Discovery ended September 6, 2002.

(b) Dispositive Motions Deadline: Dispositive motions on Phase I issues were due on or before December 6, 2002.

(c) Settlement Conference, Final Pre-trial, and Trial: No scheduled dates.^{1/}

4. Other Case-Related Issues Deemed Relevant by Counsel, Jointly: The following motions are currently pending before the Court: (1) Plaintiff's Motion for Leave to File Third Amended Complaint and Memorandum of Law in Support Thereof filed February 19, 2004; and (2) United States' Motion for Reconsideration of the July 8, 2004 Order Regarding United States' Motion for Partial Summary Judgment Against Daniel Green filed July 21, 2004.

Respectfully Submitted;

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^{1/} If the current settlement discussions prove unsuccessful, the parties will seek a status conference to discuss a further scheduling order.

Joint Status Report of Parties submitted in *United States v. Daniel Green, et al.*, Case No. C-1-00-637 (S.D. Ohio).

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HIS CAPACITY AS THE PERSONAL
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